

CITY COUNCIL AGENDA

OCTOBER 2, 2007

AMENDED AGENDA

PETE CONSTANT
FORREST WILLIAMS
SAM LICCARDO
KANSEN CHU
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO
MADISON P. NGUYEN
DAVID D CORTESE, VICE MAYOR
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp. Council Meetings are televised live and rebroadcast on Channel 26.

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 294-9337 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
 - * 9:00 a.m. - Closed Session, Call to Order in Council Chambers
Adjourn to Closed Session in Council Chambers Conference Room, W133
[See Separate Agenda](#)
 - 1:30 p.m. - Regular Session, Council Chambers, City Hall
 - 3:30 p.m. - Hear Open Forum and continue the RDA Board Meeting
(no earlier than 3:30 p.m.) [See RDA Agenda](#)
 - * 7:00 p.m. - Public Hearings, Council Chambers, City Hall
- **Invocation (District 9)**
 - * Andrea Goeke, Cambrian Library Teen Idol Winner
- **Pledge of Allegiance**
- **Orders of the Day**

Items marked with an asterisk denote changes or additions to the previously published Agenda for this meeting.

**ITEMS 9.1 AND 9.2 ARE TO BE CONSIDERED IN A JOINT CITY COUNCIL/
REDEVELOPMENT AGENCY BOARD SESSION.**

- * ADJOURNMENT: This meeting will be adjourned in memory of Al Barber, a founding member of the San José Downtown Association and strong advocate for small businesses in our community. (Mayor)

Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.

- **Closed Session Report**

1. CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Rhonda Wright for her exemplary dedication and valuable contributions to the City organization. (City Manager's Office/Mayor)

1. CEREMONIAL ITEMS

- 1.2 Presentation of a proclamation declaring October 3, 2007 as Walk to School Day in the City of San José. (Constant)
- 1.3 Presentation of Award from the Environmental Protection Agency to the City of San José for Buying Environmentally-friendly Computers. (Environmental Services)
- 1.4 Presentation of a proclamation recognizing the week of October 7-13, 2007 as Fire Prevention Week. (Fire)
- 1.5 Presentation of a commendation to the Center for Employment Training on the celebration of its 40th anniversary and in recognition of the vital role it plays in the quality of life in San José. (Mayor/Redevelopment Agency)
(Rules Committee referral 9/19/07)
- 1.6 Presentation of a commendation to Isabelle Connell and Alexandra Diaz for proudly representing San José and winning gold medals in Hershey, Pennsylvania at the National Track Meet. (Parks, Recreation and Neighborhood Services)
- 1.7 Presentation of a proclamation declaring October 2007 as Energy Awareness Month in the City of San José. (Mayor/Environmental Services)
* (Rules Committee referral 9/26/07)

2. CONSENT CALENDAR

Notice to the public: There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Consent Calendar and considered separately.

2.1 Approval of Minutes.

Recommendation: Approval of Minutes.

- (a) [Special Meeting minutes of June 21, 2007 on Various Police Related Reports.](#)
- (b) [Regular minutes of June 26, 2007.](#)

* [Deferred from 9/25/07 – Item 2.1(e) – (f)]

2.2 Final adoption of ordinances.

2.3 [Acceptance of the Office of the City Auditor's Report.](#)

Recommendation: Acceptance of the Office of the City Auditor's *Report of Activities for the Period July 16 through August 15, 2007.* (City Auditor)
(Rules Committee referral 9/19/07)

2. CONSENT CALENDAR

2.4 Acceptance of the findings report relating to the Bay 101 Conditional Approval of Stock Transfer.

Recommendation: Acceptance of the finding reports from Kafoury, Armstrong & Company, LLP relating to the Bay 101 Conditional Approval of Stock Transfer, quarter ending March 31, 2007. (City Auditor)
(Rules Committee referral 9/19/07)

2.5 Approval of fiscal actions for Redevelopment Agency Capital Projects.

Recommendation:

- (a) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund) for 2007-2008:
 - (1) Increase the estimate for Earned Revenue by \$63,000.
 - (2) Increase the appropriation to the Department of Planning, Building and Code Enforcement for the California Environmental Quality Act (CEQA) Clearance project (PSM 365, Amendment #2) in the amount of \$15,000.
 - (3) Establish an appropriation to the Department of Public Works for the Roundtable Pedestrian Light project (PSM #500) in the amount of \$48,000.
- (b) Adoption of a resolution making certain determinations regarding the related expenditure of Redevelopment Agency funds on certain public improvements in connection with the Roundtable Pedestrian Light project as more specifically described in the memorandum from the Redevelopment Agency, dated June 13, 2007.

CEQA: Not a Project. (City Manager's Office/Planning, Building and Code Enforcement/Public Works)

2.6 Report on bids and approval to award the contract for Villa Vista Reservoir Rehabilitation Project.

Recommendation: Report on bids and award of contract for Villa Vista Reservoir Rehabilitation to the low bidder, Olympus & Associates, Inc., for the estimated term of November 2007 to March 2008, in an amount not to exceed \$232,680 and approval of a contingency in the amount of \$25,000. CEQA: Exempt, File No. PP07-148. Council District 8. (Environmental Services)

2.7 Approval of open purchase order #2 for FY 2007-2008 for supplies, materials, equipment and services.

Recommendation: Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2007-2008 #2 and authorization for the Director of Finance to execute the purchase orders. CEQA: See Administration's memo to Council for specific CEQA clearance determinations on each recommended action. (Finance)

2. CONSENT CALENDAR

2.8 [Approval of a Request for Proposal for Debt Collection Services.](#)

- * **Recommendation:** Approval for issuance of a Request for Proposal for debt collection services for a three-year term with three additional one-year option periods, as directed in the Mayor's June Budget Message. CEQA: Not a Project. (Finance)

2.9 [Approval of actions related to After School Programs.](#)

Recommendation:

- (a) Adoption of a resolution authorizing the Director of Parks, Recreation and Neighborhood Services to:
 - (1) Negotiate and execute all contracts and amendments in 2007-2008 related to the provision of after school programs funded with up to \$1,007,991 paid by Alum Rock Union, Berryessa Unified, San José Unified, and Santa Clara Unified School Districts.
 - (2) Negotiate and execute amendments to these agreements in excess of the amount identified in this memo if the Director determines that the City is able to provide the services and comply with any additional requirements associated with the increased grant funds.
- (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:
 - (1) Increase the estimate for Revenue from Local Agencies by \$1,007,991; and
 - (2) Establish an appropriation to PRNS in City-Wide Expenses for San José After School – District Contracts in the amount of \$1,007,991.

CEQA: Not a Project. Council Districts 3, 4, 5 and 7. SNI: Thirteenth Street, Five Wounds/Brookwood Terrace. (Parks, Recreation and Neighborhood Services/City Manager's Office)

2.10 [Approval of actions related to the annexation of Riverside No. 52.](#)

Recommendation: Adoption of a resolution pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 to make an application to the Santa Clara County Local Agency Formation Commission to allow the reorganization of territory designated as Riverside No. 52, which involves the annexation to the City of San José of approximately 15 gross acres of land, located southeast corner of Piercy Road and Tennant Avenue, and the detachment of the same from the appropriate special districts including: Central Fire Protection District and the Santa Clara County Library Service Area. CEQA: Mitigated Negative Declaration, File Nos. GP05-02-04 and UGB05-001. Council District 2. (Planning, Building and Code Enforcement)

2. CONSENT CALENDAR

2.11 [Approval of an exemption from Council Policy 4-3 for the Airport Terminal Area Improvement Program.](#)

Recommendation: Adoption of a resolution approving an exemption of the Airport Terminal Area Improvement Program from City Council Policy 4-3, Outdoor Lighting on Private Developments, which requires the use of low pressure sodium lighting in unroofed areas of private developments throughout San José. CEQA: Resolution Nos. 67280 and 71451, File No. PP07-163. (Public Works/Airport)

* **RECOMMEND DEFERRAL TO 10/16/07 PER ADMINISTRATION**

2.12 [Approval of Redevelopment Agency Executive Director's travel.](#)

Recommendation:

- (a) Approval of Redevelopment Agency Executive Director's travel to Austin, TX on October 10-12, 2007 to participate in the San José Silicon Valley Chamber of Commerce "City-to-City Trip". Source of Funds: Redevelopment Agency.
- (b) Approval of Redevelopment Agency Executive Director's travel to Las Vegas, NV on October 23-26, 2007 to participate in the 2007 ULI Fall Meeting & Urban Land Expo. Source of Funds: Redevelopment Agency.

(Redevelopment Agency)

(Rules Committee referral 9/19/07)

2.13 **Request for excused absences for Councilmember Constant.**

Recommendation: Request for excused absences for Councilmember Campos.

- (a) [Request for an excused absence from the Community and Economic Development](#) Committee meeting of September 24, 2007 due to: Family Emergency.
- (b) [Request for an excused absence from the Executive and Afternoon Sessions](#) of the City Council meeting of September 25, 2007 due to: Family Emergency.

(Constant)

* (Rules Committee referral 9/26/07)

2.14 [Request for an excused absence for Councilmember Pyle.](#)

Recommendation: Request for an excused absence for Councilmember Pyle from the Neighborhood Services and Education Committee meeting on October 11, 2007 due to Authorized City Business: to attend the City to City Conference with the San José/Silicon Valley Chamber of Commerce in Austin, TX. (Pyle)

* (Rules Committee referral 9/26/07)

2. CONSENT CALENDAR

2.15 Approval of Councilmember Williams' Travel Out of State.

Recommendation: Approval of travel by Councilmember Williams to Charlotte, NC on October 7-11, 2007 to attend the American Public Transportation Agency Conference.
Source of Funds: Santa Clara Valley Transportation Authority. (Williams)

* (Rules Committee referral 9/26/07)

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the Rules and Open Government Committee – September 12, 2007 Mayor Reed, Chair

- (a) City Council
 - (1) Review September 18, 2007 City Council Agenda
 - (a) Add New Items to final agenda
 - (1) Approve recommendations regarding Residential Traffic Calming Community Hearings. (Mayor)
HEARD BY COUNCIL 9/18/07 – ITEM 6.3
 - (2) Review September 25, 2007 Draft City Council Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
 - (2) Federal
- (d) Meeting Schedules
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Report of Public Hearing Regarding Smoking Ban in Public Parks. (Parks, Recreation and Neighborhood Services)
 - (2) Monthly Update on Public/Private Partnership Program. (City Manager)
SEE ITEM 4.3 FOR COUNCIL ACTION TO BE TAKEN
- (h) Review of Additions to Council Committee Agendas
 - (1) Community and Economic Development Committee
 - (2) Neighborhood Services and Education Committee
 - (a) Amend Workplan to include updates from the San José Education Foundation Homework Center Program. (Chirco)
 - (3) Transportation and Environment Committee
 - (4) Public Safety, Finance and Strategic Support Committee
- (i) Open Government Initiatives
- (j) Open Forum
- (k) Adjournment

* **RECOMMEND DEFERRAL TO 10/16/07 PER CITY CLERK**

3. STRATEGIC SUPPORT SERVICES

3.2 **Report of the Public Safety, Finance and Strategic Support Committee – September 20, 2007**

Councilmember Nguyen, Chair

- (a) Redevelopment Agency Monthly Financial Report. (Redevelopment Agency)
 - (1) Financial Statements
 - (2) Capital Cost Report
 - (3) Cash Flow Projections

- (b) Report on Communications Services. (IT)

Request Deferral to October

- (c) Initial Review of the Los Lagos Golf Course. (City Auditor)
- (d) Update on Risk Management Reorganization. (Human Resources)

Request Deferral to October

- (e) Report on Resolution Amending Administrative Citation Schedule of Fines. (Fire)

* **SEE ITEM 3.5 FOR COUNCIL ACTION TO BE TAKEN**

- (f) Report on Heart Safe City. (Fire)

- (g) Quarterly Update on Council Directives. (City Manager)

Request Deferral

- (h) Report on Public and Educational Cable Access Transition Planning. (City Manager)

- (i) Audit Recommendation Follow-up: San José Police Department's Staffing and Deployment. (City Auditor)

Request Deferral to October

- (j) Report on the Process and Timeline Update for Adoption of the 2007 California Building Standards, CCR Title 24, Parts 2-6, 8-10, and 12. (Planning, Building and Code Enforcement/Fire)

- (k) Update on Finance Department Revenue Collections. (Finance)

Deferred from August

- (l) Oral Petitions
- (m) Adjournment

3.3 **Approval of fiscal actions related to various appropriations for FY 2006-2007.**

* **Recommendation:**

- (a) Adoption of an ordinance ratifying the final 2006-2007 appropriation increases detailed in the report.
- (b) Adoption of the following 2006-2007 appropriation ordinance and funding sources resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Central Fund:
 - (1) Increase the Earned Revenue estimate by \$4,967,928;
 - (2) Increase the Transfer to Council District 1 by \$281,702;
 - (3) Increase the Transfer to Council District 2 by \$240,274;
 - (4) Increase the Transfer to Council District 3 by \$260,519;
 - (5) Increase the Transfer to Council District 4 by \$261,396;

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.3 Approval of fiscal actions related to various appropriations for FY 2006-2007. (Cont'd.)

Recommendation:

- (b)
 - (6) Increase the Transfer to Council District 5 by \$284,274;
 - (7) Increase the Transfer to Council District 6 by \$287,784;
 - (8) Increase the Transfer to Council District 7 by \$329,181;
 - (9) Increase the Transfer to Council District 8 by \$264,968;
 - (10) Increase the Transfer to Council District 9 by \$187,469;
 - (11) Increase the Transfer to Council District 10 by \$412,762;
 - (12) Increase the Transfer to City-Wide by \$1,408,661; and
 - (13) Increase the Transfer to the General Fund by \$748,938.
 - (c) Adoption of the following 2006-2007 appropriation ordinance and funding sources resolution amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Maintenance Yards Purposes:
 - (1) Increase the Earned Revenue Estimate by \$14,244; and
 - (2) Increase the Transfer to the General Fund by \$14,244.
 - (d) Adoption of the following 2006-2007 appropriation ordinance and funding sources resolution amendments in the Construction Excise Tax Fund:
 - (1) Increase the Earned Revenue Estimate by \$64,148; and
 - (2) Increase the Fiber Optics Permit Engineering appropriation by \$64,148.
- CEQA: Not a Project. (City Manager's Office)

3.4 Public Hearing and approval of actions related to Maintenance District 18 (Silver Creek).

Recommendation:

- (a) Public Hearing regarding a proposal to amend Maintenance District 18 to increase assessments to replace aging facilities and expand services, and at the close of the public hearing direct the City Clerk to tabulate the property owner ballots and report the results of the election.
- (b) If the majority of the votes tabulated are weighted in favor of the amendment, adoption of a resolution:
 - (1) Declaring the ballot tabulation results;
 - (2) Approving the Engineer's Report, base assessment and annual adjustments and amending Maintenance District 18; and
 - (3) Imposing the assessments on those properties within the district as proposed in the Engineer's Report.
- (c) If the majority of the votes are weighted in opposition to the amendment, the Council may not take any further action with regard to the imposition of increases in assessments.

CEQA: Exempt, File No. PP07-020. Council District 8. (Public Works)

* **TO BE HEARD IN THE EVENING**

3. STRATEGIC SUPPORT SERVICES

3.5 [Approval to amend the Administrative Citation Schedule of Fines for violators of fire safety.](#)

Recommendation: Adoption of a resolution amending the Administrative Citation Schedule of Fines to establish administrative fines for fire false alarms and other violations of the fire safety, fire protection, and hazardous materials storage or use provisions of the San José Municipal Code, with base fines ranging from \$100 to \$1000, with enhanced fines for repeat violations of the same provision, which occur within anyone year period, and repealing Resolution No. 73712, as amended on April 3, 2007. CEQA: Not a Project. (Fire)

* [Public Safety, Finance and Strategic Support Committee 9/20/07 – Item (e)]

3.6 [Review of actions related to the Arbitration Award between the City and IAFF \(Local 230\).](#)

[Attachment](#)

Recommendation: Verbal status report on implementation of the Arbitration Award between the City and IAFF (Local 230) and clarification, with possible Council action, of Council direction on implementation of Anti-Terrorism Training pay. CEQA: Not a Project. (City Manager's Office)

* (Referred from 9/18/07 – Item 3.3)

3.7 **Report of the Rules and Open Government Committee – [August 22, 2007](#)** **Mayor Reed, Chair**

(a) City Council

- (1) Review August 28, 2007 City Council Agenda
- (2) Review September 4, 2007 Draft City Council Agenda

None – Meeting Canceled

- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update

(1) State

- (a) SB 264 (Alquist) – Transaction and Use Taxes
HEARD BY COUNCIL 8/28/07 – ITEM 3.8
AB 444 (Hancock) – Motor Vehicle Registration Fees.
(Transportation)

- (b) SB 375 (Steinberg) – Regional Preferred Growth Scenarios.
(Planning, Building and Code Enforcement)
HEARD BY COUNCIL 8/28/07 – ITEM 3.9

- (c) 2007 League of California Cities Resolutions. (City Manager)
HEARD BY COUNCIL 8/28/07 – ITEM 3.10

(2) Federal

(d) Meeting Schedules

- (1) Scheduling of Council Appointee Reviews. (Mayor)

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.7 Report of the Rules and Open Government Committee – August 22, 2007 (Cont'd.) Mayor Reed, Chair

- (d) (2) Approve Redevelopment Agency Board Budget Study Sessions:
 - (a) Redevelopment Agency Study Session on the FY 2007-08 Redevelopment Agency Capital Improvement Budget on September 6, 2007 from 9:00 a.m. – Noon;
 - (b) Redevelopment Agency Study Session on San José McEnery Convention Center Expansion on November 13, 2007 from 8:00 a.m. – Noon. (Redevelopment Agency)
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
 - (1) Arts Commission Appointment. (Williams)
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Proposal for a citywide inclusionary transit-oriented housing policy. (Liccardo/Campos/Chirco/Nguyen)
 - (2) Discussion of the decision to join the City of San Francisco in the Amicus Brief regarding California Supreme Court Case No. S147999 re: the constitutionality of same sex marriages. (City Attorney)
Continued from June 20, 2007
Deferred from August 15, 2007
 - (3) Referral of an Audit of the Emergency Communications Center. (City Auditor)
 - (4) Discussion of audit and follow up alternatives for maintaining service levels of History Park in compliance with Mayor's Budget Addendum #4. (Mayor)
- (h) Review of Additions to Council Committee Agendas
 - (1) Community and Economic Development Committee
 - (2) Neighborhood Services and Education Committee
 - (a) Add item entitled, "Grants Policy and an Emergency Grants Policy and Procedure" to the September 13, 2007 agenda.
 - (3) Transportation and Environment Committee
 - (4) Public Safety, Finance and Strategic Support Committee
- (i) Open Government Initiatives
- (j) Open Forum
- (k) Adjournment

* (Deferred from 9/18/07 – Item 3.1 and 9/25/07 – Item 3.5)

3.8 Report of the Rules and Open Government Committee – [August 29, 2007](#) Mayor Reed, Chair

- (a) City Council
 - (1) Review September 4, 2007 City Council Agenda
None – Meeting Canceled
 - (2) Review September 11, 2007 Draft City Council Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.8 Report of the Rules and Open Government Committee – August 29, 2007 (Cont'd.) Mayor Reed, Chair

- (c) Legislative Update
 - (1) State
 - (a) AB 444 (Hancock) – Motor Vehicle Registration Fees.
(Transportation)
Deferred from August 22, 2007
 - (b) SB 275 (Cedillo) – Health Care Facilities: Patient Transport –
Supplemental Memo. (Housing)
HEARD BY COUNCIL 9/11/07 – ITEM 3.7
 - (c) SB 184 (Alquist and Correa) – Transportation Projects.
(Transportation)
HEARD BY COUNCIL 9/11/07 – ITEM 3.8
 - (2) Federal
 - (a) Federal Relations Update – August Recess 2007. (CMO)
 - (d) Meeting Schedules
 - (e) The Public Record
 - (f) Appointments to Boards, Commissions and Committees
 - (g) Rules Committee Reviews, Recommendations and Approvals
 - (h) Review of Additions to Council Committee Agendas
 - (1) Community and Economic Development Committee
 - (2) Neighborhood Services and Education Committee
 - (3) Transportation and Environment Committee
 - (4) Public Safety, Finance and Strategic Support Committee
 - (i) Open Government Initiatives
 - (1) Reed Reforms
 - (2) Sunshine Reform Task Force
 - (a) Discussion of Council Referral to Staff and the SRTF regarding the
certification and appeal process relative to the release of closed
session recordings.
 - (3) Significant Public Records Act Requests
 - (4) Council Policy Manual Update
 - (j) Open Forum
 - (k) Adjournment
- * (Deferred from 9/25/07 – Item 3.1)

3.9 Report of the Rules and Open Government Committee – [September 5, 2007](#) Mayor Reed, Chair

- (a) City Council
 - (1) Review September 11, 2007 City Council Agenda
 - (2) Review September 18, 2007 Draft City Council Agenda
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.9 Report of the Rules and Open Government Committee – September 5, 2007 (Cont'd.)

- (c) Legislative Update
 - (1) State
 - (a) SB 732 (Steinberg) – Safe Drinking Water, Water Quality and Supply, Flood control, River and Coastal Protection Bond Act of 2006. (PBCE)

HEARD BY COUNCIL 9/11/07 – ITEM 3.14

- (2) Federal
- (d) Meeting Schedules
- (e) The Public Record
- (f) Appointments to Boards, Commissions and Committees
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Proposal for a citywide inclusionary transit-oriented housing policy. (Liccardo/Campos/Chirco/Nguyen)
Deferred from August 22, 2007
 - (2) Authorization to Travel. (Chirco)
- (g) (3) Urgency Ordinance regarding dead or dying tree replacements. (Department of Transportation)
- (4) City Auditor's 2007-08 Workplan. (Auditor)
- (h) Review of Additions to Council Committee Agendas
 - (1) Community and Economic Development Committee
 - (2) Neighborhood Services and Education Committee
 - (3) Transportation and Environment Committee
 - (4) Public Safety, Finance and Strategic Support Committee
- (i) Open Government Initiatives
 - (1) Reed Reforms
 - (2) Sunshine Reform Task Force
 - (3) Significant Public Records Act Requests
 - (4) Council Policy Manual Update
- (j) Open Forum
- (k) Adjournment

* (Deferred from 9/25/07 – Item 3.2)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee Councilmember Pyle, Chair

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Approval of actions related to the Arts Stabilization Loan Fund.

* **Recommendation:**

- (a) Approval of the Arts Commission's recommended Arts Stabilization Loan Fund Guidelines, with a modification to Section 2.i. as follows, "If, after considering the analyses, assessments and staff recommendations, the Arts Commission should reach a different conclusion than staff, it may choose to make alternative recommendations, which will also be presented to City Council with the staff's recommendation."
- (b) Approval of the staff recommendation that the Flexible Fund be established with \$200,000 of the uncommitted portion of the \$4,000,000 Arts Stabilization Loan Fund, in addition to the incoming line of credit interest payments and general investment earnings.
- (c) Direction to the City Manager to implement the Arts Stabilization Loan Fund Guidelines, as revised.

CEQA: Not a Project. (Economic Development)

[Community and Economic Development Committee referral 8/27/07 – Item (h)]

(Deferred from 9/11/07 – Item 4.2 and 9/18/07 – Item 4.6)

4.3 Approval of actions related to the Public/Private Partnership Mutual Indemnification.

Recommendation:

- (a) Approval of the approach to be used by staff when a request is made that the City provide indemnity to the other contracting party, including requests for mutual indemnification requirements for contracts, where the contract involves services donated at no cost, or services provided with a substantial donation (donated services agreement);
- (b) Adoption of a resolution authorizing the City Manager to negotiate and execute indemnity provisions in donated service agreements, including mutual indemnification provisions, where the City Manager concludes that the benefit received by the City outweighs the risk by the City under the negotiated indemnity provision, and where the contracts are otherwise within the City Manager's authority to execute; and,
- (c) Where donated services agreements involve City Council approval, direct staff to present a risk analysis in conjunction with any recommended indemnity provision.

CEQA: Not a Project. (City Manager's Office/Human Resources)

[Rules Committee referral 9/12/07 – Item G(2)]

5. NEIGHBORHOOD SERVICES

5.1 Report of the Neighborhood Services and Education Committee Councilmember Chirco, Chair

5.2 Approval of actions related to the Animal Ordinance Fee and Fine Resolution Update.

Recommendation:

- (a) [Adoption of a resolution amending the administrative citation schedule of fines](#) for certain violations of Title 7 of the San José Municipal Code to conform new San José Municipal Code section numbers and to increase the administrative fines for certain animal care and control provisions and repealing Resolution No. 73712.
- (b) [Adoption of a resolution amending Part 4 of the Schedule of Fees regarding](#) animal care and control services to conform new San José Municipal Code section numbers and to add an administrative late fee for individuals who license only after being issued an administrative citation for not licensing and amending Resolution No. 72737 as amended.

CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)

5.3 [Acceptance of the Delmas Park SNI Neighborhood Improvement Plan Amendment.](#)

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Recommendation:

- (a) Acceptance of the Strong Neighborhoods Initiative (SNI) *Delmas Park Neighborhood Improvement Plan Amendment* as the renewed community vision for the future of the Delmas Park SNI Planning Area; and
- (b) Encourage the Delmas Park area residents, property owners, and community members to continue to dedicate their time, energy, and resources towards the Plan, as amended, continuing with their community-building activities.

CEQA: Resolution No. 71045. The Planning Commission recommends approval (7-0-0). Council District 3. SNI: Delmas Park. (Planning, Building and Code Enforcement)

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation and Environment Committee – [September 17, 2007](#) Councilmember Williams, Chair

- (a) Report on Sewer Service & Use Charge Fund Financing Alternatives to Address Critical Infrastructure Needs. (Environmental Services/Public Works/ Transportation)
- (b) Report on Sewer Use Ordinance Revisions for Pretreatment Program. (Environmental Services)

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SEE ITEM 7.1 FOR COUNCIL ACTION TO BE TAKEN

- (c) Report on Responsible Fleet Management Policy. (General Services)
 - (d) Terminal Area Improvement Program Progress Report. (Airport/Public Works)
- (Item continued on the next page)*

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Transportation and Environment Committee – September 17, 2007 (Cont'd.)

- (e) Proposed Amendment to the Airport Design Build Contract for the Consolidated Rental Garage (ConRAC) and Other Adjustments. (Airport/Public Works)
SEE ITEM 6.2 FOR COUNCIL ACTION TO BE TAKEN
- (f) Report on Greenhouse Gas Reduction Goals Community Discussions. (Environmental Services)
DROP
- (g) BART/VTA Coordination Issues (VTP 2035/Bus Service Realignment) Progress Report. (Transportation)
- (h) Report on Tree Preservation Services Recommendations. (City Manager/Transportation/Planning, Building and Code Enforcement)
- * (i) Recycled Water and City of San José/Santa Clara County Water District Collaboration and Funding for Infrastructure. (Environmental Services)
DEFERRED FROM AUGUST
 - (1) Status Report on South Bay Water Recycling
 - (2) Development of a Long-Term Cooperative Agreement with the Santa Clara Valley Water District for the South Bay Water Recycling Program.
 - (3) Negotiate and execute Reimbursement Agreement for Development and Utilization of Recycled Water Between the Santa Clara Valley Water District and the City of San José.
- * **SEE ITEM 7.3 FOR COUNCIL ACTION TO BE TAKEN**
 - (j) Report on Trail Development and Grant Priorities. (Parks, Recreation and Neighborhood Services)
 - (k) Quarterly Update on Performance Measurements. (City Manager)
 - (l) Quarterly Update on Council Directives. (City Manager)
 - (m) Oral Petitions
 - (n) Adjournment

6.2 [Approval of an amendment to the agreement for the Airport Terminal Area Improvement Program.](#)

[Supplemental](#)

Recommendation:

- (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a First Amendment to the Contract with Hensel Phelps Construction Co. for design and construction of the Airport Terminal Area Improvement Program to increase maximum compensation by \$105,274,000 for the design and construction of a larger Consolidated Rental Car Garage, increasing maximum compensation from \$512,771,000 to a total Contract amount not to exceed \$618,045,000; to extend the Project Element Acceptance deadline for the Consolidated Rental Car Garage up to 18 months; to redistribute the fixed fee payable under the Contract to Hensel Phelps to account for revisions to the scope of project elements subsequent to approval of the Contract, and to provide for the reallocation of unexpended compensation between project elements.

(Item continued on the next page)

6. TRANSPORTATION & AVIATION SERVICES

6.2 Approval of an amendment to the agreement for the Airport Terminal Area Improvement Program. (Cont'd.)

Recommendation:

- (b) Adoption of a resolution authorizing the City Manager to negotiate and execute new On-Airport Rental Car Operations and Lease Agreements with the current On-Airport Rental Car Companies, Avis, Budget, Dollar, Enterprise, Fox, Hertz, Thrifty, and Vanguard, for On-Airport Rental Car operations at the Consolidated Rental Car Garage for a maximum term of ten (10) years from commencement of On-Airport Rental Car operations at the Consolidated Rental Car Garage, and a 15 year renewal period, subject to mutual agreement of the City and the rental car companies;
- (c) Adoption of a resolution authorizing the City Manager to negotiate and execute new On-Airport Rental Car Operations and Lease Agreements with companies not currently operating at the Airport, but commencing operations at the Airport at any time during or after the negotiation and execution of the new On-Airport Rental Car Operations and Lease Agreements, for On-Airport Rental Car operations at the Consolidated Rental Car Garage for the then remaining portion of the term of ten (10) years from commencement of On-Airport Rental Car operations at the Consolidated Rental Car Garage, and a 15 year renewal period, subject to mutual agreement of the City and the rental car companies.
- (d) Adoption of a resolution imposing a customer facilities and transportation fee (CFC) of \$10.00 per rental car contract effective January 1, 2008, for customers renting vehicles from On-Airport Rental Car Companies, for the purpose of paying the costs of the financing, design, construction and operation of the new Consolidated Rental Car Garage and the costs of an Airport-mandated common use transportation system operated for the movement of passengers between the terminals and the existing rental car center, and repealing Resolution No. 69512, effective January 1, 2008.
- (e) Adoption of a resolution imposing a customer facilities and transportation fee (CFC) of \$5.00 per rental car contract for rental car customers renting vehicles from off-Airport rental car companies at the Norman Y. Mineta San José International Airport effective January 1, 2008 until the opening of the Consolidated Rental Car Garage, for the purpose of paying the costs of an Airport-mandated common use transportation system operated for the movement of passengers between the terminals and the existing rental car center.
- (f) Adoption of the following Appropriation Ordinance Amendments in the Airport Revenue Bond Improvement Fund:
 - (1) Increase the Consolidated Rental Car Facility appropriation by \$109,000,000;
 - (2) Increase the Public Parking Garage appropriation by \$2,442,000;
 - (3) Decrease the Terminal Area Development, Phase I appropriation by \$2,442,000;
 - (4) Decrease the Ending Fund Balance by \$109,000,000.

CEQA: Resolution Nos. 67380 and 71451, PP 06-137. (Airport/City Manager's Office/Public Works)

[Transportation and Environment Committee referral 9/17/07 – Item (e)]

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Approval of actions related to the Sewer Use Ordinance Update.

* **Recommendation:**

- (a) Approval of the status report on the industrial local discharge limits review and sewer use ordinance update.
- (b) Direction to the City Attorney's Office to prepare an ordinance amending Chapter 15.14 of the San José Municipal Code to modify the local discharge limits for copper, nickel, selenium, and total phenol; to eliminate limits for manganese, total toxic organics and xylene; to conform Municipal Code requirements to federal pretreatment program regulations; to add new definitions; to expand reporting, record keeping, and sampling requirements; and to require industrial pretreatment permit applications 90 days prior to discharge or expiration of existing permit.

CEQA: Not a Project. (Environmental Services)

[Transportation and Environment Committee referral 9/17/07 – Item (b)]

7.2 **Approval of a consultant master agreement for various City projects.**

Recommendation:

- (a) Approval of consultant master agreements with the following firms for various City projects:
 - (1) David J. Powers & Associates, Inc. for a variety of environmental support services from the date of execution through December 31, 2010 in an amount not to exceed \$500,000.
 - (2) Denise Duffy & Associates, Inc. for a variety of environmental support services from the date of execution through December 31, 2010 in an amount not to exceed \$500,000.
 - (3) URS Corporation Americas for a variety of environmental support services from the date of execution through December 31, 2010 in an amount not to exceed \$500,000.
- (b) Adoption of a resolution giving the Director of Public Works authorization to amend the scope of services for any of the above master agreements to add additional standard services.

CEQA: Not a Project. (Public Works)

7.3 Approval of actions related to the development of a long-term cooperative agreement with the Santa Clara Valley Water District for the South Bay Water Recycling Program.

Supplemental

Recommendation:

- (a) Adoption of the following principles as the basis for developing a long-term cooperative agreement on the South Bay Water Recycling program with the Santa Clara Valley Water District:
 - (1) Principle 1: The Agreement should reflect the mutual interest of the City and the District in expanding the use of recycled water.

(Item continued on the next page)

7. ENVIRONMENTAL & UTILITY SERVICES

7.3 Approval of actions related to the development of a long-term cooperative agreement with the Santa Clara Valley Water District for the South Bay Water Recycling Program. (Cont'd.)

Recommendation:

- (a) (2) Principle 2: The Recycled Water Cooperative Agreement should support and enhance each agency's ability to carry out its mission.
- (3) Principle 3: In order to fully integrate recycled water into the countywide water supply portfolio, the Agreement should establish a framework for both agencies to meet regularly to discuss and participate in planning for development of new recycled water treatment and major distribution facilities and the future allocation and use of recycled water.
- (4) Principle 4: The Agreement should provide for equal cost sharing by both agencies in the cost of operating and maintaining the South Bay Water Recycling Program.
- (5) Principle 5: Cost sharing on future capital expansion will be negotiated on a project by project basis.
- (6) Principle 6: The Agreement should reflect the City and District interest in a long-term, stable, cooperative relationship.
- (7) Principle 7: The preferred location for environmental review and engineering design of an advanced water treatment facility should be Treatment Plant lands located near the SBWR Transmission Pumping, and the review and design should be for an advanced water treatment facility that is sized to provide treatment sufficient to meet future water quality goals and to support flexible operation of treatment plant processes.

RECOMMEND DROP PER ADMINISTRATION

- (b) Direction to staff to negotiate a draft Recycled Water Cooperative Agreement based on the principles set forth herewith and agendize for approval by Council.

RECOMMEND DROP PER ADMINISTRATION

- (c) Adoption of a resolution authorizing the City Manager to negotiate and execute a new "South Bay Water Recycling Reimbursement Agreement for Development and Utilization of Recycled Water Between the Santa Clara Valley Water District and the City of San José.", under which the District pays the City \$115 per acre foot of recycled water used, for a term of July 1, 2007 through July 15 2008 or until the Recycled Water Cooperative Agreement is approved by Council and the Board, whichever comes first.

CEQA: Not a Project. (Environmental Services)

[Transportation and Environment Committee referral 9/17/07 – Item (i)]

8. PUBLIC SAFETY SERVICES

8.1 [ADMINISTRATIVE HEARING and approval of actions related to Fire Stations 12 and 17.](#)

Recommendation: ADMINISTRATIVE HEARING on the request of D.L. Falk Construction Company, the general contractor on the new Fire Station Nos. 12 and 17, to substitute Value Engineering for Wright Environmental Services, Inc., the listed subcontractor for the above ground fuel storage tank system work and staff's recommendation to grant the request by D.L. Falk Construction Company. CEQA: Mitigated Negative Declaration, File No. PP05-071 and Exempt, File No. PP05-275. Council Districts 9 and 10. (Public Works)

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

See Items 8.1 "Adoption of resolutions pertaining to the Agency's FY 2007-2008 Capital Budget and Five-Year Capital Improvement Program", 8.2 "Award of a construction contract for construction of parking lot for the GRP", and 8.3 "Approval of the First Amendment to the Disposition and Development Agreement with City Front Square, LLC and Casa Del Pueblo, LP" on the Redevelopment Agency Agenda, which will be heard and action taken only during the Redevelopment Agency Meeting that follows the Council Meeting today.

CONVENE REDEVELOPMENT AGENCY BOARD TO CONSIDER ITEMS 9.1 AND 9.2 IN A JOINT SESSION

9.1 [Acceptance of the report on Investment in the Strong Neighborhoods Initiative Area.](#)

- * **Recommendation:** Acceptance of the attached *Report on Investment in the Strong Neighborhoods Initiative Area* by Seifel Consulting. CEQA: Not a Project. (City Manager's Office/Redevelopment Agency)
[Neighborhood Services and Education Committee referral 9/13/07 – Item (e)]

9.2 [Approval of the Small Wonders work plan.](#)

Recommendation: Approval of the "Small Wonders" work plan to enhance the public realm and pedestrian experience downtown, and advance the 1st ACT Vision consistent with the Downtown 2000 Strategy Plan and Economic Development Strategy. CEQA: Not a Project. Council District 3. (Economic Development/Redevelopment Agency)
[Community and Economic Development Committee referral 8/27/07 – Item (c)]

- Notice of City Engineer's Pending Decision on Final Maps

* In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9908	West side of South 10 th Street, 550 feet north of Burke Street	7	Provident Holdings & Investments LLC	1 Lots / 12 Units	Industrial Condos	Approve

- Notice of City Engineer's Award of Construction Projects
- Open Forum (To be heard no earlier than 3:30 p.m.)
- Continue RDA Board Meeting (immediately following Open Forum) [See RDA Agenda](#)
- Council will recess until 7:00 p.m.

10. GENERAL PLAN PUBLIC HEARINGS

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

(To be heard by the City Council at 7:00 p.m.)

Notice to the public: There will be no separate discussion of Public Hearings Consent Calendar (Item 11.1) as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Public Hearings Consent Calendar (Item 11.1) and considered separately.

11.1 Public Hearings on Consent Calendar.

Recommendation:

- (a) Consideration of an ordinance rezoning the real property located on the north side of Bark Lane approximately 150 feet west of Weyburn Lane (7201 Bark Lane) from RM Multiple Residence Zoning District Multiple Residence Zoning District Residential District to A(PD) Residential District to demolish the existing residential project and to allow 45 attached single family units (four stories over a podium garage) on a 0.90 gross acre site (Lee Lily Fu and Jason C, Owner).
CEQA: Mitigated Negative Declaration.
PDC06-005 - District 1
DROP TO BE RENOTICED

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

- Open Forum

- Adjournment

- * This meeting will be adjourned in memory of Al Barber, a founding member of the San José Downtown Association and strong advocate for small businesses in our community.
(Mayor)

CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, Redevelopment Agency Board, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

1. Public Meeting Decorum:

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

2. Signs, Objects or Symbolic Material:

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
 - No objects will be larger than 2 feet by 3 feet.
 - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
 - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D)**

3. Addressing the Council, Redevelopment Agency Board, Committee, Board or Commission:

- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
- b) Meeting attendees are usually given two (2) minutes to speak on any agenda item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
- c) Speakers should discuss topics related to City business on the agenda, unless they are speaking during open forum.
- d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
- e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
- f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
- g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.